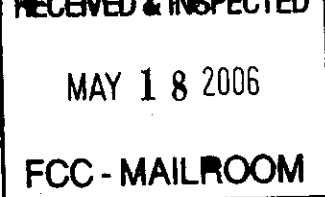


CGB-CC-0529



CATHOLIC DIOCESE OF YOUNGSTOWN

CTNY
P.O. Box 430
9531 Akron-Canfield Road
Canfield, OH 44406
Phone: (330) 533-2243
Fax: (330) 533-1907

Petition for Exemption and/or Waiver

The Catholic Television Network of the Diocese of Youngstown ("CTNY") respectfully submits this Petition for Exemption and/or Waiver from the FCC's closed captioning rules, 47 CFR 79.1 et seq., for its half-hour, weekly Catholic Mass, currently broadcast each Sunday on Youngstown television station WFMJ TV-21 ("The Mass for Shut-Ins"). The Petition should be granted pursuant to 47 CFR 79.1 (d) (8) and also because, inter alia, compliance with these rules would inflict an "undue burden" on CTNY and be contrary to the public interest.

The FCC's rules expressly recognize that a "waiver" of the closed captioning requirement is appropriate in several instances. Specifically, the rules exempt any locally produced, non-new programming "with no repeat value." See 47 CFR 79.1 (d) (8). Unlike other "local religious programs" that the FCC occasionally has found not to qualify under this provision, CTNY's weekly Sunday Mass is precisely the type of locally produced, non-news programming that qualifies for this exemption. The half-hour, weekly Sunday Mass on WFMJ TV-21, the only Catholic Mass produced and broadcast to the Northeast Ohio and Western Pennsylvania television audience, is taped each week at CTNY and aired that week. The tape is due at the WFMJ TV-21 Station by Thursday (church guidelines require that every "taped" Mass contain topical sermons and specific scriptural reading and, thus, must be aired within a few days of taping). A threshold problem for CTNY, therefore, is that the closed captioning process itself takes a

week (See Appendix A) and most often would rob the Mass of its topicality, contrary to Church guidelines. The critical fact, coupled with the fact that the once-run Sunday Mass has “no repeat value,” establish CTNY’s entitlement to an exemption under Section 79.1 (d) (8) of the Rules.

Alternatively, however, the Rules also provide for an exemption for any television station’s broadcast of programming that the FCC has determined to be “exempt” on the basis that the closed captioning requirement would place an “undue burden” on the programming producer. See 47 CFR 79.1 (d). Moreover, the FCC rules provide specific procedures for program producers to petition the FCC for exemptions based on the “undue burden” standard. See 47 CFR 79.1 (f).

In this case, CTNY not only qualifies for an exemption under Section 79.1 (d) (8), *supra*, but also fully meets the FCC requirements for an exemption based on “undue burden,” because the imposition of the closed captioning requirement with regard to the Sunday Mass would present substantial difficulties and crippling expenses for CTNY. First, the CTNY reasonably estimates that the cost of closed captioning for each Sunday Mass would total at \$325 per week, or about \$16,900 per year. *See* Appendix A Statement of Bob Gavalier. That sum would represent about 9% of CTNY’s entire budget. Id.

Second, an additional \$16,900 expense for CTNY would be crippling and almost certainly will force the cancellation of the Sunday Mass on WFMJ TV-21. Id. Indeed, budget adjustments for the non-profit CTNY in recent years have left CTNY’s other essential video programs so “lean” that further cuts in those critical efforts could not be made in order to “shift funds: for the closed captioning of the Sunday mass. Id.

Third, reasonable alternatives have been considered but none is financially viable.

CTNY has only two full-time employees and no technical person, no equipment for closed captioning and no other capacity to create closed captioning "in house." Id.

Fourth, a balance of public interest factors also strongly weighs in favor of the FCC's grant of an exemption to CTNY under the "undue burden" test. Without an exemption, the Sunday Mass most certainly will have to be cancelled. See Appendix A. Tens of thousands of homebound, elderly and disabled Catholics in Northeast Ohio and Western Pennsylvania would be then be denied weekly access to their Church, to their religion, to their religious traditions and, effectively, would be denied the opportunity to practice their chosen religion via television. Id. These disenfranchised Catholics would include large numbers of disabled, sick and frail elderly who cannot otherwise attend any weekly religious services and who are dependent upon this one televised Sunday Mass from CTNY to satisfy their spiritual needs. Id.

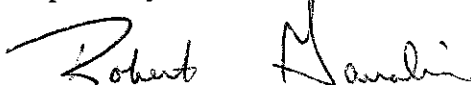
Apart from the exemption provisions of Sections 79.1 (f) of the Rules, CTNY alternatively seeks a waiver of the FCC's closed captioning rules, 47 CFR 79.1 et seq., on the basis that the FCC has held in analogous circumstances that non-profit entities are entitled to waivers of certain FCC regulations, especially those rules and regulations that impose financial obligations upon non-governmental entities. For example, non-profit organizations generally were exempt from the FCC's rules and policies involving the payment of annual regulatory fee. A denial of CTNY's request for waiver of the closed captioning rules, in these circumstances, would be an arbitrary and capricious departure from FCC precedent.

Finally, CTNY alternatively seeks a waiver of the FCC's closed captioning rules on the basis of the Church's unique position as a wholly eleemosynary institution that, among its services, produces religious TV services. The Diocese of Youngstown, and its CTNY, must be relied upon to balance the many financial needs of serving the people of Northeast Ohio and Western Pennsylvania, especially the poor. CTNY respectfully submits that forcing the Diocese of Youngstown to forego the provision of other social and charitable programs that serve the public interest in order to fund closed captioning would be an unjust intrusion into the Church's discretion to allocate its resources in the manner that, in its reasonable judgment, best serves the public.

Conclusion

For the foregoing reasons, an exemption from the FCC's closed captioning requirements for this one weekly program – CTNY's "Mass for Shut-Ins" – is not only warranted but, clearly, such a result would best serve the public interest.

Respectfully submitted,



Catholic Television Network of the
Diocese of Youngstown
By: Mr. Robert Gavalier
General Manager
9531 Akron-Canfield Road
P.O. Box 430
Canfield, Ohio 44406-0430
(330) 533-2243
BobCTNY@aol.com

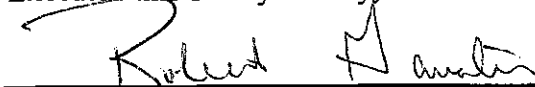
Dated: May 1, 2006

Sworn Statement of Robert Gavalier

Robert Gavalier, being sworn, does swear under penalty of perjury that:

1. My name is Robert Gavalier, I am a resident of Ohio, and I am the General Manager of the Catholic Television Network of the Diocese of Youngstown.
2. I have read the foregoing "Petition for Exemption and/or Waiver," submitted on behalf of the Television Center of the Diocese of Youngstown (CTNY), which seeks an exemption and/or waiver from the FCC rules that generally require the closed captioning of certain programs broadcast on television stations in the United States.
3. I hereby verify that all of the financial statements contained in the Petition are correct, including without limitation: (a) all statements regarding CTNY's locally produced, half hour Sunday Mass, which is broadcast on WFMJ TV-21; and (b) matters pertaining to the Diocese of Youngstown and the Catholic Church generally, including the inability of the Diocese of Youngstown to provide any additional funds to CTNY for closed captioning services for the Sunday Mass, as well as the quoted costs and conditions of such services (see Attachment to this Appendix A).
4. Finally, I am compelled to affirm that, without an exemption from the closed captioning rules, CTNY likely will have to cancel production and broadcast of the Church's Sunday Mass on WFMJ TV-21

Executed this 1st day of May, 2006



Robert Gavalier

APPENDIX A

Subj: **Closed captioning**
Date: 4/19/2006 12:21:14 AM Eastern Standard Time
From: Videodup
To: BobCTNY
CC: Videodup

Catholic Television Network of Youngstown
Bob Gaulier
P.O. Box 340
Canfield, OH 44406
330-533-2243

Hi Bob,

Thanks for giving me a call and giving me a chance to quote on your Closed Captioning project. The quote is for a 28:30 TV program 1 per week for 52 weeks. Our price includes Transcribing the program time coding the program so the captions come up at the right time and framing the captions around graphics. This price includes encoding the program to Beta Sp or DVCPRO and includes the tape stock. The program should be 100% accurate. The price for doing this is \$350.00 per program if you will sign a 1 year contract will will do it for \$325.00 per program. If you need any other information please call or email, thanks Chris.

Chris Atchley
Universal Media Service, Inc.
(918)249-8747 Off.
(918)645-2081 Cell

End of the Year Budget
2004-2005

Department	Number	Budget	Actual	Percent
Income				
Other income	140-501-31	\$ 14,000.00	\$ 12,214.86	87%
TV Production	140-520-31	\$ 8,000.00	\$ 9,830.00	123%
TV Day Sponsor	140-524-31	\$ 7,000.00	\$ 3,780.00	54%
TV Broadcast	140-529-31	\$ 9,300.00	\$ 11,302.24	122%
Priest Stipend Miss	140-546-31	\$ 3,000.00	\$ 1,844.00	61%
Total		\$ 41,300.00	\$ 38,971.10	94%
Subsidy		\$ 163,562.25	\$ 163,562.25	100%
Total Income		\$ 204,862.25	\$ 202,533.35	99%
Expenses Employ				
Religious Salary	153-013-31	\$ 38,320.00	\$ 38,490.81	100%
Lay Person Salary	153-014-31	\$ 82,950.00	\$ 81,385.79	98%
Life Insurance	153-020-31	\$ 360.00	\$ 330.00	92%
Health Care	153-021-31	\$ 24,945.00	\$ 27,210.00	109%
Pension	153-022-31	\$ 4,780.74	\$ 5,202.14	109%
FICA	153-031-31	\$ 5,124.05	\$ 5,557.13	108%
Workers Comp	153-032-31	\$ 606.00	\$ 577.35	95%
Unemployment Tax	153-033-31	\$ 415.00	\$ 393.11	95%
Total Expenses Emp		\$ 157,500.79	\$ 159,146.33	101%
Expenses Office				
Telephone	153-041-31	\$ 3,200.00	\$ 2,563.37	80%
Postage	153-042-31	\$ 5,000.00	\$ 7,026.56	141%
Printing	153-043-31	\$ 1,000.00	\$ 927.20	93%
Photocopying	153-044-31	\$ 2,500.00	\$ 2,687.64	108%
Office Supplies	153-045-31	\$ 1,000.00	\$ 967.75	97%
Equipment Maint	153-046-31	\$ 300.00	\$ 265.04	88%
TV Equipment Maint	153-048-31	\$ 6,200.00	\$ 4,295.75	69%
Mileage	153-051-31	\$ 1,200.00	\$ 1,257.83	105%
Transportation	153-054-31	\$ -		
Membership	153-056-31	\$ 400.00	\$ 362.77	91%
Subscriptions	153-063-31	\$ -		
Public Relations	153-064-31	\$ 600.00	\$ 429.90	72%
Radio Production	153-067-31	\$ 400.00	\$ 349.04	87%
TV Production	153-068-31	\$ 3,000.00	\$ 5,104.62	170%
Inter-Diocesan Inst	153-070-31	\$ 500.00	\$ -	0%
Utilities	153-091-31	\$ 1,500.00	\$ 1,440.00	96%
Building Maint	153-092-31	\$ 1,800.00	\$ 1,311.63	73%
Property Insurance	153-093-31	\$ 4,000.00	\$ 3,506.84	88%
Rent	153-095-31	\$ 5,000.00	\$ 4,999.92	100%
Attorney	153-102-31	\$ 1,500.00	\$ 800.00	53%
Donations	153-107-31	\$ 200.00	\$ 25.94	13%
Other Misc.	153-109-31	\$ 200.00	\$ 314.28	157%
Contracted Services	153-132-31	\$ 1,200.00	\$ 1,200.00	100%
TV Broadcast	153-153-31	\$ 4,000.00	\$ 3,722.50	93%
Total Expenses Off		\$ 44,700.00	\$ 43,558.58	97%
Total Expenses		\$ 202,200.79	\$ 202,704.91	100%